*ORDINANCE NO. 16-15*[1]

***AN ORDINANCE OF THE CITY OF MANDEVILLE PERTAINING TO THE ZONING OF PROPERTY GENERALLY KNOWN AS THE "PRESTRESSED CONCRETE SITE" OR "PORT MARIGNY" LOCATED IN SECTIONS 46 & 47, T8S-R11E, CITY OF MANDEVILLE, ST. TAMMANY PARISH, LOUISIANA, CONTAINING 76.648 ACRES; AMENDING THE OFFICIAL ZONING MAP AND COMPREHENSIVE LAND USE REGULATION ORDINANCE (CLURO) OF THE CITY TO CLASSIFY THE PROPERTY AS A PLANNED COMBINED USE DISTRICT ("PCUD") AND TO ESTABLISH APPROVAL REQUIREMENTS FOR SPECIFIED USES; APPROVING THE MASTER PLAN AND GUIDING PRINCIPLES PREPARED BY ARCHITECTS SOUTHWEST, INC., AS AMENDED; APPROVING A CONCEPTUAL DEVELOPMENT PLAN; APPROVING A DEVELOPMENT AGREEMENT FOR THE PROPERTY; AND PROVIDING FOR OTHER MATTERS IN CONNECTION THEREWITH.***

**RECITALS:**

**WHEREAS**, the Prestressed Concrete Site, as more particularly described on the survey prepared by Kelly J. McHugh & Associates, Inc., Civil Engineers & Land Surveyors, dated 12/03/13, revised through June 30, 2015, Dwg. No. 13-136-BS, , attached hereto as Exhibit "A" (the "Boundary Survey"), was used as an industrial site to produce concrete components for the construction of the Causeway Bridge and other bridges all over the south until the plant closed in early 1983; and

**WHEREAS,** Pittman Assets, LLC, is the present owner of the Prestressed Concrete Site ("Owner"), which was originally purchased by its members in July 1984; and

**WHEREAS**, the Prestressed Concrete Site still contains concrete, wood and steel pilings imbedded in the ground to great depths , as well as the remnants of

[1] Exhibit references in this ordinance are to the same exhibits attached ot Ordinance 15-17.

concrete structures and debris that were produced and left on the site by the former owners and operators ("Present Site Conditions"); and

**WHEREAS**, prior to the adoption of the CLURO, the Prestressed Concrete Site was rezoned from an industrial classification to that of a "Planned District" (see City of Mandeville - Zoning Map, dated November 12, 2013); and

**WHEREAS**, the Owner of the Prestressed Concrete Site has requested that the property be reclassified as a "Planned Combined Use District" in order to conform to current nomenclature and land use regulations proscribed by the CLURO; and

**WHEREAS**, the Prestressed Concrete Site has been identified in the City of Mandeville Comprehensive Plan, dated 2007 ("Comprehensive Plan"), as "vacant" property (see Map 11 - Existing Land Use) and has in fact been vacant for many years, except for its use as a temporary storage site for debris following Hurricane Katrina and for the storage of building materials and equipment during various public street and drainage projects; and

**WHEREAS**, the Comprehensive Plan identifies the Prestressed Concrete Site for future use as a "Planned/Marina District" (see Comprehensive Plan – Map 2); and

**WHEREAS**, the Comprehensive Plan establishes as a goal of the City the development of the Prestressed Concrete Site as a "vibrant, walkable, mixed-use, waterfront development that provides strong fiscal benefits for the City" (see Comprehensive Plan - Goal 12, page 36); and

**WHEREAS,** in order to accomplish Goal 12, the Comprehensive Plan incorporates certain policy considerations for the development of the Prestressed Concrete Site, including:

A. Coordinate with the Owner of the Prestressed Concrete Site to mitigate traffic from the mixed uses within the site without introducing unacceptable levels of congestion into Old Mandeville;
B. Provide primary access through Mariners Village and Monroe Street

C. Limit the height of structures along the waterfront to 60 feet and step heights down to 35 feet along the edges of the property;
D. Encourage street level activity;
E. Afford public access along the waterfront;
F. Retain key vistas of the Lake within the development;
G. Facilitate bike and pedestrian circulation;
H. Allow low to medium density residential uses along Monroe Street;
I. Require that the property comply with new urbanist design standards and incorporate local architectural elements; and
J. Promote the redevelopment of Mariner's Village in conjunction with the development of the Prestressed Concrete Site; and

**WHEREAS**, Section 8.5 of the CLURO, entitled "Traditional Neighborhood Development", codifies new urbanism design standards as referenced in the policy considerations for achieving Goal 12 mentioned above; and

**WHEREAS**, Section 8.2 of the CLURO, entitled "Special Uses Criteria", more specifically, Subsection 8.2.3.7, entitled "Special Marina Use Criteria" provide for the development and use of a development site as a marina; and

**WHEREAS**, the City owns a strip of land, approximately 50 feet in width, that runs from Monroe Street to the Lake, lying between the eastern property line of Mariner's Village and the western boundary line of the Prestressed Concrete Site which presently serves as a primary drainage canal for the City drainage system (the "Drainage Canal"); and

**WHEREAS**, the Drainage Canal was acquired by the City from Brown and Root, Inc. contemporaneously with the revocation of a portion of Kleber Street, by act dated August 7, 1967, recorded with the Clerk of Court as Instrument # 246757 on August 10, 1967; and

**WHEREAS**, in order for Port Marigny to access Mariner's Boulevard, as set forth in the Comprehensive Plan, a predial servitude for passage and for utilities is needed at one or more locations across the Drainage Canal; and

**WHEREAS**, the Master Plan submitted by the Owner, which regulates the development of the Prestressed Concrete Site, includes new urbanist design principles which are in substantial accord with the requirements of the Traditional Neighborhood Development and the Special Marina Use Criteria; and

**WHEREAS**, the Owner has requested that the City approve the development of the Prestressed Concrete Site as a Planned Combined Use District in accordance with the Master Plan to be known as "Port Marigny"; and

**WHEREAS**, under Article 7, Section 7.5.15.2 of the CLURO, all uses permitted in a Planned Combined Use District are conditional uses which must be approved in accordance with the procedure for obtaining conditional use permits and Planned District Zoning.; and

**WHEREAS,** the procedure for obtaining conditional use permits and Planned Districts is set forth in Article 4 of the CLURO; and

**WHEREAS**, in conformity with procedure established in Article 4 of the CLURO, and is amended by this ordinance and the Development Agreement to require Special Use Permit approval for certain uses, the duly authorized representative of the Owner, namely Port Marigny, L.L.C., has submitted an application for approval of the use of the Prestressed Concrete Site in accordance with the Master Plan and provided pursuant to said application the Boundary Survey, ~~the~~ Master Plan, a Topographic Survey, a conceptual Fill and Drainage Plan, a traffic study, a Development Agreement, a Conceptual Lot Layout, and other information and documents required by the City to be submitted in connection with the Owner's application for conceptual plan approval for the planned combined use district; and

**WHEREAS**, in connection with the application, the Owner has represented that the Master Plan was developed by Architects Southwest, Inc. and approved by the Owner to substantially comply in all material respects with the new urbanist design standards and principles contained in Section 8.5 of the CLURO; and

**WHEREAS**, the Master Plan substantially fulfills, in all material respects, the policy considerations set out under Goal 12 of the Comprehensive Plan for the

development of the Prestressed Concrete Site, excepting those matters for which a variance or special consideration is specifically requested herein, and other matters over which the Owner has no control; and

**WHEREAS**, the City has made additional specific requirements for site development approval of certain Land Uses within the Port Marigny Development through a Special Use Permit review procedure as set forth in this Ordinance and the Development Agreement between and among the City, Port Marigny and Pittman Assets setting forth certain parameters for the development of Port Marigny as authorized under the provisions of LSA-R.S. 33:4708.21 *et seq.*; and

**WHEREAS**, the City Planner has advised the City Council that the application for Planned Combined Use District approval submitted in connection with the application by Port Marigny, LLC substantially complies with the procedure and requirements set forth in Article 4 of the CLURO; and

**WHEREAS**, the City of Mandeville Planning Commission, after giving proper notice, conducted public hearings on the application of Owner for Conditional Use and Planned District approval on July 23, 2015, August 18, 2015; September 1, 2015, September 29, 2015, October 14, 2015, October 29, 2015, November 10, 2015, December 17, 2015, January 20, 2016, February 17, 2016, March 15, 2016, March 30, 2016, April 20, 2016, and May 4, 2016 and reported its findings and recommendations to the City Council; and

**WHEREAS**, all applicable procedural requirements for the adoption of this Ordinance have been met;

**NOW THEREFORE, BE IT ORDAINED**, by the City Council of the City of Mandeville, acting as the governing authority thereof, as follows:

**Section 1**. *Classification of the Prestressed Concrete Site*. That the Official Zoning Map and CLURO be and they are hereby amended to classify Arpent Lots 14, 15, 16, 17, 18, 20, 21 and a portion of Arpent Lot 19 (not including the subdivided lots designated as lots 1-14, inclusive, forming the southwest corner of Kleber Street and Monroe Street), Parcels A and B, and the revoked portion of Kleber Street, located in Sections 46 & 47-T8S-R11E, City of Mandeville, St. Tammany Parish, Louisiana, more particularly described on the Boundary Survey prepared by Kelly J. McHugh & Associates, Inc.,

Civil Engineers & Land Surveyors, dated 12/03/13, revised through June 30, 2015, Dwg. No. 13-136- BS, containing 76.648 acres, attached hereto as Exhibit "A" and in the *process verbal* attached hereto as Exhibit "B, as a "Planned Combined Use District", subject to the land use regulations contained in the CLURO. (Hereinafter, the property described in this Section 1 shall be referred to as the "Port Marigny PCUD".)

**Section 2**. *Approval of Certain Uses*. That the uses identified on the Master Plan and Guiding Principles, prepared by Architects Southwest, Inc., dated June 25, 2015, revised through _____ __, 2016, entitled "Port Marigny TND", including the regulations and restrictions set forth therein, which were submitted in connection with the application of Owner for a Planned District permit, as same were supplemented and amended during the course of the public hearings conducted by the Planning Commission, be and the same are hereby approved as uses, regulations and restrictions applicable to and within the Port Marigny PCUD, subject to such other terms and conditions as may be set forth in this Ordinance. (Hereinafter, the uses, regulations and restrictions approved in this Section 2 shall be referred to as the "Port Marigny Use Regulations and Covenants".) Specifically, by approving the Master Plan for the Port Marigny PCUD, the City agrees and hereby approves the categories of land uses and the number of units allowed for each land use in connection with the Port Marigny PCUD to be, as follows:

**Table 1: Authorized Land Uses**

| Land Use | # of Units (maximum unless noted) | Type of Approval Required |
|---|---|---|
| Marina Boat Slips | 117 | S |
| Residential Uses: | | |
| Single Family Detached, including the following Building Types: Cottage Houses, Neighborhood Houses, and Large Neighborhood Houses | 162 | P |
| Apartments, including the following Building Types: Mixed Use and Attached Residential | 204 | S |
| Mansion Condominiums (1 Building at 4 Units per Building) | 4 | P |
| Townhouses | 52 | P |
| Sub-total: | 422 | |
| Commercial Uses: | | |
| Hotel | 120 rooms | S |
| High Turnover Restaurant (As defined in the ITE but excluding | 4,000 sf | S |

| | | |
|---|---|---|
| restaurants with drive-through service) | | |
| Quality Restaurant (As defined in the ITE) | 7,000 sf | S |
| Other Retail/Commercial, including the space below Apartments in Mixed Use buildings | 60,000 sf | S |
| Civic Uses | Not less than 2.85 acres | S |
| Parks and Open Spaces | Not less than 15.3 Acres | P |

**P-** A use defined by Ord. 15-17 is Permitted by-right within the Port Marigny Development.
****S** – A use permitted in the Port Marigny Development by this Ordinance but requiring the issuance of a Special Use Permit by the Zoning Commission in accordance with the procedures and standards provided in Addendum A; and, further requiring consideration by the Zoning Commission of the compatibility of the proposed use and other conditions on the adjacent Land Uses.

Each of the Building Types listed above (except Civic Uses, Parks and Open Spaces) reflects the maximum number of units or square footage per Land Use. Land Uses are listed in the Urban Regulation Instructions included in the Master Plan and are more particularly defined in the list of Definitions shown in the Master Plan. The Definitions in the CLURO shall control in the event of a conflict with the definitions in the Master Plan, except that the definitions of "Alley Zone" and "Porch" as shown in the Master Plan shall have application in all proceedings for approval of the Port Marigny Development and in connection with the issuance of construction/building permits for structures erected in the Port Marigny Development. The arrangement of lots and uses as are depicted in the Master Plan and on the Conceptual Lot Layout prepared by Kelly J. McHugh & Associates, Civil Engineers and Land Surveyors, dated January 16, 2016, revised through _____, 2016 ("Conceptual Lot Layout") may be modified during the Review Procedure for Special Use Permit established in Addendum A, which is attached hereto and made part of this Ordinance, to accommodate parking and traffic within the Port Marigny neighborhoods not addressed at this time and to assure that traffic generated by Port Marigny Land Uses, as calculated in Section 4 of the Development Agreement, is maintained within the Milestone limits established in Section 6 of the Development Agreement.

**Section 3**. *Approval of Development Concept*. That the development of Port Marigny PCUD in accordance with the Port Marigny Use Regulations and Covenants, and the Conceptual Lot Layout (formerly referred to as the preliminary Tentative Plan of Subdivision, dated July 30, 2015, prepared by Kelly J. McHugh & Associates, Civil

Engineers & Land Surveyors, and submitted as Exhibit 11 on September 29, 2015 as a supplement to the original application), as modified on January 16, 2016, and further revised and renamed "Conceptual Lot Layout" on _____, 2016, as same may be subsequently modified through the Master Plan approval process to accommodate the realignment of proposed street, be and the same are hereby approved.

**Section 4**. *Revocation of Temporary Construction Servitude*. By Act entitled "Grant and Dedication of Temporary Construction Servitude", dated October 2, 1990, recorded at COB 1440, folio 106, CIN 764376 of the official records of St. Tammany Parish, Louisiana, the Owner's ancestor in title granted a temporary construction servitude over a twenty foot strip of land located ten feet on either side of a center line running from Kleber Street westerly to the City's 50 foot drainage canal, all as more particularly described in said Act, and as shown on the March, 1990 map by Dyer & Moody #32-163-110-51 referenced in said Act, for the construction of subsurface drainage improvements, which temporary construction servitude was never used and which subsurface drainage improvements were never constructed. Accordingly, the temporary construction servitude granted to the City over that portion of the Prestressed Concrete Site more particularly described in the Act and shown on the Boundary Survey, and any and all servitudes, rights and obligations granted or contained in said Act, are declared no longer needed for public purposes, and it is hereby revoked. The form of the Act of Revocation of Temporary Construction Servitude, attached hereto as Exhibit "D", is hereby authorized and approved.

**Section 5**. *Approval of Fill and Grading Plan*. Present Site Conditions are unusual and create practical difficulties and a hardship for the Owner to implement the development of the Prestressed Concrete Site, such that strict application of the City's rules and regulations with respect to the placement and grading of fill on the Port Marigny PCUD are hereby modified to the extent required to permit fill and grading of the Prestressed Concrete Site in accordance with the conceptual Grading Plan (Cut + Fill) prepared by Kelly J. McHugh, dated September 25, 2015, Dwg. No. 13-136 –GP, revised February 16, 2016, attached hereto as Exhibit "E-1". This approval is conditioned upon Owner submitting a detailed grading plan to the City Engineer for his review and approval prior to Owner commencing grading of the site.

**Section 6.** *Grant of Servitude for Passage and Utilities.* City acknowledges that the Comprehensive Plan contemplates primary access to and from Port Marigny will be

through the existing Mariners Boulevard and Monroe Street; and that, in order for the Port Marigny street system and public utilities to connect with Mariners Boulevard permission from the City to cross the Drainage Canal and construct improvements is needed. Accordingly, a non-exclusive servitude for passage and for the construction of utilities be the same is hereby granted to Owner over and across the Drainage Canal at the location shown on the Master Plan and at such other locations for vehicular, bicycle and pedestrian traffic, and utilities, all as more specifically set forth in the act entitled "Act Granting Non-Exclusive Servitude of Passage and for Utilities", a copy of which is attached hereto and made part hereof as Exhibit "F".

**Section 7**. *Rules, Restrictions and Covenants for Governance of Port Marigny*. The rules, restrictions and covenants for the governance of the Port Marigny development, which are in addition to the Port Marigny Use Regulations and Covenants, shall be substantially in accordance with the attached Exhibit "G", as modified by the Revised CC&Rs with compendium of Definitions, submitted September 29, 2015 as Exhibit "G-1", but subject to further modification as Port Marigny applies for and proceeds through the City's subdivision approval process and, as applicable, the Review Procedure for grant of a Special Use Permit (the "Restrictive Covenants").

**Section 8**. *Subsequent Approvals Required.* All Land Uses designated Mansion Condo, Cottage House, Townhouse, Neighborhood House and Large Neighborhood House on the Lot Type Plan of the Master Plan, are permitted uses having received approval for such uses pursuant to this Ordinance, however, these Land Uses shall require subdivision review and approval by the City Planning Commission in accordance with Division III of the CLURO without further proceedings before the City Council. All other Land Uses identified in Table 1, Section 3 C of the Development Agreement, including attached residential units designated as Attached Residential Use and Mixed-Use on the Density Plan of the Master Plan, Commercial Use, Hotel Use, and Marina Boat Slip Use shall be subject to subdivision review and approval in accordance with Division III of the CLURO, as well as Special Use Permit review and approval in accordance with the Review Procedure established in Addendum A attached to this Ordinance and made a part of this Ordinance and the Development Agreement. The Review Procedure established in Addendum A shall have application to all Land Uses that require a Special Use Permit as set forth in Table 1, Section 3 C of the Development Agreement. Marina development shall comply with the special Marina Use Criteria of Section 8.2.3.7 Special Use Criteria, except that no permanent residential occupancy of boats or other permanent

residential uses shall be established within areas designated for marina use and no on-site provisions shall be made for dry boat storage or major boat repairs shall be authorized.

**Section 9**. *Approval of Development Agreement*. In order to assure the orderly development of Port Marigny and to assure that the City's infrastructure is adequate to accommodate the approved categories of Land Uses and approved number of Units within a Land Use Category in Port Marigny, as set forth in the approved Master Plan and documents supplemental thereto, as same may be modified in accordance with the Review Procedure (Addendum A) for a Special Use Permit, and approved for subdivision development in accordance with Article 12 of the CLURO; and as phases of the Port Marigny Development are constructed in accordance with the City's permitting processes, the City, Pittman Assets and Port Marigny have agreed to enter into a development agreement as permitted by LSA-R.S. 33:4780.21 *et seq*. contemporaneously with the adoption of this Ordinance.

**BE IT FURTHER ORDAINED**, that pursuant to the provisions of LSA-R.S. 33:4780.29 a development agreement in the form and substance of the Development Agreement, attached hereto as Exhibit "K", is hereby approved. Said Development Agreement may only be amended or cancelled in accordance with the provisions of LSA-R.S. 33:4780.30 and the terms of the Development Agreement.

**Section 10.** Authority to Execute and Sign Agreements, Recording of Same.

**BE IT FURTHER ORDAINED,** that the Mayor be and he is hereby authorized, empowered and directed for and on behalf of the City to execute the aforedescribed Act of Revocation of Temporary Construction Servitude (Exhibit "D"), the Grant of Servitude for Passage and Utilities (Exhibit "F"), and the Development Agreement (Exhibit "K"), together with any other documents, containing such other terms and conditions, necessary or required, to give effect to the matters addressed in this Ordinance.

**BE IT FURTHER ORDAINED,** that the Clerk of Council be and she is hereby authorized, empowered and directed to record this Ordinance, the Boundary Survey and *proces verbal o*f the Port Marigny property, the Port Marigny Site Plan and Master Plan, the Port Marigny Restrictive Covenants (when finalized), the Act of Revocation of Temporary Construction Servitude, the Grant of Servitude of Passage and Utilities, in the

conveyance records of the Clerk of Court for St. Tammany Parish, Louisiana, as covenants running with the land comprising the Port Marigny PCUD, to be modified, expanded or changed only in accordance with the procedure proscribed in Section 4.3.3.13 and Section 8.3.1.3.c. of the CLURO.

The ordinance having been submitted to a vote, the vote thereon was as follows:

AYES:

NAY:

ABSTENTIONS:

ABSENT:

and the Ordinance was declared adopted this __ day of _____, 2016.

_____ _____

Clerk of Council Mayor Pro-Tem

**SUBMITTAL TO MAYOR**

The foregoing Ordinance was **SUBMITTED** by me to the Mayor of the City of Mandeville this __ day of _____, 2016 at 9:00 o'clock a.m.

_____

**CLERK OF COUNCIL**

**APPROVAL OF ORDINANCE**

The foregoing Ordinance is by me hereby **APPROVED**, this __ day of _____, 2016 at ___ o'clock _.m.

_____

**DONALD J. VILLERE, MAYOR**

**VETO OF ORDINANCE**

The foregoing Ordinance is by me hereby **VETOED**, this _____ day of _____, 2016, at ____ o'clock ___.m.

_____

**RECEIPT FROM MAYOR**

The foregoing Ordinance was **RECEIVED** by me from the Mayor of the City of Mandeville this ___ day of _____, 2016 at ___ o'clock _.m.

_____

**CLERK OF COUNCIL**

**CERTIFICATE**

**I, THE UNDERSIGNED** Clerk of the City Council of the City of Mandeville do hereby certify that the foregoing is a true and correct copy of an ordinance adopted by the City Council of the City of Mandeville at a duly noticed, called and convened meeting of said City Council held on the __ day of _____, 2016 at which a quorum was present and voting. I do further certify that said Ordinance has not thereafter been altered, amended, rescinded, or repealed.

**WITNESS MY HAND** and the seal of the City of Mandeville this __ day of _____, 2016.

_____

**CLERK OF COUNCIL**